

EXHIBIT K

1 - TINA McDONALD -

2 Q. Did you ever have occasion to
3 terminate any employees when you were a store
4 manager?

5 A. Yes, I did terminate.

6 Q. How many approximately?

7 A. I can't -- I can't really recall a
8 specific number, to be fully honest over that many
9 course of years, honestly.

10 Q. Other than termination what, if any,
11 other forms of corrective or disciplinary action
12 did you have the authority to take as the store
13 manager?

14 A. As a store manager you're responsible
15 for coaching, which could be a conversation with a
16 partner. Coaching could also come in the form it
17 could be documented, so it could be on an actual
18 corrective action form of you documenting a
19 partner's policy violation.

20 Q. Any other forms of discipline?

21 A. Aside from corrective action as far
22 as in the documentation form, as well as --

23 Q. Yes, under --

24 A. Go ahead, I'm sorry.

25 Q. I didn't want to speak over you.

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2 Please continue.

3 A. I just want to clarify. So you're
4 saying outside of documenting policy violations or
5 having coaching conversations and as far as
6 separations, besides that?

7 Q. Yes, let me clarify. Other than
8 termination, verbal coaching, written
9 documentation of coaching, are there any other
10 disciplinary measures or types of things that you
11 could do to correct performance problems in your
12 store?

13 A. No. Those would be the standard
14 processes as far as coaching, forms of corrective
15 action, or/and it could be, depending on what it
16 is, including separation.

17 Q. Did you receive training into how to
18 determine what degree of discipline should be
19 meted out for any particular offense?

20 MR. MOY: Objection.

21 A. Can you clarify more about that,
22 please?

23 Q. How was it that you came to know
24 whether a particular conduct should be met with
25 termination versus a verbal coaching versus a

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2 documented written coaching; how did you know
3 which to pick?

4 MR. MOY: Objection.

5 A. So at Starbucks they provide you
6 with -- we have a partner resources, partner
7 contact system that we're able to call in to
8 receive guidance in regard to disciplinary actions
9 with partners to ensure that we're fair and
10 consistent and what's the precedent, because they
11 have information to how similar violations are
12 being handled across the U.S. business.

13 Q. Do you believe that consistency in
14 that respect is important?

15 MR. MOY: Objection.

16 A. I think I'm going to need you to
17 expound a little bit more on that specific
18 question.

19 Q. Why do you believe that
20 Starbucks -- withdrawn.

21 For what purpose do you believe that
22 Starbucks maintains processes designed to try to
23 keep consistency in the form of discipline meted
24 out for similar conduct in different incidents?

25 MR. MOY: Objection.

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2 A. That -- well, to be honest, I cannot
3 speak to why let's say the -- I can't speak to all
4 the decisions that are made. I just -- cause
5 that's not necessarily my area of expertise in
6 regard to every decision that is made that comes
7 down, so I can't definitively give you an answer
8 on that. You know, I just know that, you know, as
9 far as our company values it's important for us to
10 be fair and consistent.

11 Q. In connection with hiring employees
12 for either of your stores, if an employee had been
13 terminated from their immediate prior employer for
14 the same or similar reasons to your being
15 terminated at Best Buy, would that have
16 categorically disqualified such an employee from
17 being hired by you?

18 MR. MOY: Objection.

19 A. What exactly -- can you be more clear
20 on what exactly you're asking me?

21 Q. Sure. If you're considering a
22 candidate to be say a barista and you found out
23 that they had been terminated from their past job
24 of many years, would you still consider them
25 eligible as a candidate?

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2 I'm going to instruct the witness not to
3 answer. This is getting to the point of
4 being harassing, outside the scope of this
5 deposition. Move on.

6 MR. GRAFF: I disagree. If I can get
7 an answer to this question, I would be able
8 to move on. There's a question pending.

9 MR. MOY: There is -- she's
10 already -- you've already asked her about
11 this issue. Unless you can actually tie it
12 to an issue in this case, this is going far
13 outside the scope of the deposition. I'm
14 going to allow the witness to answer, but
15 going forward I'm going to be shutting down
16 this rabbit hole because this is getting
17 ridiculous.

18 MR. GRAFF: Reject to your
19 characterizations, but you can guide yourself
20 as you wish. If the witness could answer
21 this question, please.

22 A. Okay, could you repeat the question.

23 MR. GRAFF: Could the court reporter
24 read back my last question, please.

25 (The question requested was read back

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----X

FOX, ET AL.,

V. CIVIL CASE NO.

1 : 19-CV-04650-AJN-SN

STARBUCKS CORPORATION,

Defendant.

DATE: August 27 2020

DATE: August 27, 2020

TIME: 10:00 A.M.

VIDEOCONFERENCE DEPOSITION OF TINA

McDONALD, pursuant to Notice, before Hope Menaker,
a Shorthand Reporter and Notary Public of the
State of New York.

1 - TINA McDONALD -

2 Q. Did your compensation change at all
3 in connection with your transferring from 75th to
4 69th and First?

5 A. Yes, it did.

6 Q. In what way did it change?

7 A. I received an increase.

8 Q. What was your salary after you
9 transferred?

10 A. That I don't recall, specifically
11 what my salary became after transferring there.

12 Q. Do you know what your total
13 annualized compensation was subsequent to your
14 transferring?

15 MR. MOY: Objection.

16 A. That -- I honestly don't recall that
17 far back, what it was.

18 Q. How did you come about obtaining the
19 first human resources or partner resources
20 position that you attained?

21 MR. MOY: Objection.

22 Q. I'll ask a different question. What
23 job did you take after you stopped being a manager
24 at 69th and First?

25 A. I took the role of the senior HR

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2 compliance specialist.

3 Q. Was that in November, 2017?

4 A. That was in November, 2017. Yes,
5 that's correct.

6 Q. Did you apply for that position?

7 A. I did apply for that position.

8 Q. What prompted you to apply?

9 A. I was made aware of the opportunity.

10 Q. How did you go about applying?

11 A. I communicated my interest to my
12 district manager.

13 Q. How did you become aware that there
14 was an available position?

15 A. If I recall correctly, my district
16 manager made me aware.

17 Q. What did you have to do to apply?

18 A. I had to go through an interview
19 process. I had to submit a resume.

20 Q. Anything else?

21 A. At this time, I can't recall
22 anything. I just remember the interview process
23 and the resume.

24 Q. Who interviewed you, what was the
25 interview process?

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2 the communication was intended to seek legal
3 advice or, in fact, resulted in legal advice?

4 MR. MOY: I think it all depends on
5 the context.

6 MR. GRAFF: Okay.

7 Q. Ms. McDonald, did anyone explain to
8 you in the context of your interview why legal
9 counsel was participating?

10 A. Yes, I believe it was explained.
11 Possibly, yeah.

12 Q. What was the explanation, if you can
13 recall it?

14 A. As I recall it was because
15 this -- the role of the HR senior compliance
16 specialist was in relation to a new legislation
17 that was going to be coming into effect. The Fair
18 Workweek legislation was centered around
19 scheduling compliance and had different legal
20 components to it.

21 Q. How were you informed that they were
22 offering you the position?

23 A. I was contacted by Rachel Kelly.

24 Q. At any point, did you receive a
25 written job description for your new position?

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2 A. Yes, I did.

3 Q. Was that before you started in the
4 position or something else?

5 A. That was -- I can't recall.

6 Q. Upon becoming senior compliance
7 specialist, who was your immediate supervisor?

8 A. I reported into Rachel Kelly.

9 Q. Did you report to anyone else
10 directly or indirectly?

11 A. No.

12 Q. As senior compliance specialist, did
13 anyone report to you as their supervisor?

14 A. No.

15 Q. As far as you know, were you the only
16 senior compliance specialist in New York at the
17 time that you held that position or is it
18 something that there were multiple individuals in
19 that capacity?

20 A. To my knowledge, I was the first
21 senior compliance specialist.

22 Q. During what period of months or years
23 did you hold that position?

24 A. From November, 2017 to November,
25 2018.

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2 Q. Did you receive a raise when you
3 became the senior compliance specialist relative
4 to being a store manager?

5 A. No, I did not receive a raise.

6 Q. Do you have an understanding of why
7 it was that -- withdrawn.

8 Could you describe your duties and
9 responsibilities as a senior compliance
10 specialist?

11 A. As a senior compliance specialist I
12 was responsible for supporting compliance with the
13 Fair Workweek legislation and what that entailed
14 was assuring that schedules are posted with 14
15 days' notice to partners; partners had access -- a
16 greater access to hours through available shift
17 posting; partners were paid schedule change
18 premiums in line with their schedule changes that
19 they maybe had received; partners were required to
20 receive an 11-hour rest between shifts.

21 And so that was something
22 additionally that I had to be responsible for, as
23 well as ensuring that partners completed a good
24 faith estimate form when they had availability
25 changes or were, upon hire, to support

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2 transparency around the amount of hours they
3 should expect; all with the intent of providing
4 predictable work schedule to partners.

5 Q. What was the geographic area of your
6 responsibility as senior compliance specialist?

7 A. It encompassed the five boroughs
8 which was Manhattan, Staten Island, Brooklyn, the
9 Bronx, and Queens.

10 Q. Did you undergo any formal training
11 in connection with becoming the senior compliance
12 specialist?

13 A. I went through training at the
14 regional office around the law itself and what it
15 entailed.

16 Q. Over what period of days or weeks did
17 you have that training?

18 A. That was a one-day training.

19 Q. Did you receive any other training in
20 connection with becoming a senior compliance
21 specialist?

22 A. No, it was more -- no, not a formal
23 training.

24 Q. Who conducted the training at the
25 regional office that day?

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2 A. That was conducted -- to the best of
3 my recollection, I remember the partner resource
4 managers at the time.

5 Q. As the store -- withdrawn.

6 As the senior compliance specialist,
7 did you conduct training for any other employees?

8 A. As a senior compliance specialist,
9 yes, I did.

10 Q. What other employees did you train?

11 A. I trained store managers on the Fair
12 Workweek legislation.

13 Q. In what context did that training
14 happen; did you go from store to store?

15 A. It was -- okay, it all depended.
16 Well, there would be times where we would conduct
17 trainings in the regional office in a large group
18 setting as well as me visiting stores one on one
19 for training.

20 Q. What training were store managers
21 supposed to receive in total, what amount of
22 training in connection with the Fair Workweek Law?

23 MR. MOY: Objection.

24 A. I'm not aware of a specific amount.
25 I don't recall saying that there was a specific

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2 specifically at particular stores?

3 A. Anything I was doing was within the
4 scope of the Fair Workweek legislation. So, for
5 example, schedules needed to be posted for
6 partners with 14 days' notice, so it's going into
7 a store and validating is that happening.

8 Schedule change logs was a part of
9 the Fair Workweek legislation as well, so going
10 into a store and seeing is the schedule change
11 logs in place.

12 Partners also have to complete a good
13 faith estimate form, and so going into a store and
14 going through a partners' files to see, do all
15 partners have a good faith estimate form on file;
16 or in the case of the available shift posting, is
17 it visibly posted in the location as well as the
18 posters required to be visibly in the back of
19 house letting partners know they're entitled to a
20 predictable work schedule.

21 Q. When did Fair Workweek regulations go
22 into effect?

23 A. I believe it was November -- I'm
24 thinking November -- it started out, I believe, on
25 a Friday initially, maybe November 24th, but I

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2 believe we really put it into effect on the 25th
3 or 27th.

4 Q. Of what year?

5 A. 2017.

Q. When you would do store visits, did you typically take notes?

8 A. Yes, I would typically take notes.

9 Q. Would you be filling in a particular
10 form or something else?

11 A. No, I wasn't -- it wasn't a
12 particular form.

13 Q. Did you have a regular practice for
14 what you would do with your notes after creating
15 them?

16 MR. MOY: Objection.

17 A. I guess this was -- is this with the
18 assumption that I had a particular practice in
19 place?

20 Q. Yes, I'm asking if you did have a
21 practice.

22 A. Okay. Yes, I did have a practice in
23 place.

24 Q. Where would you typically put your
25 notes after you wrote them?

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2 you may proceed, and thank you for the time.

3 Q. Ms. McDonald, other than counsel did
4 you communicate with anyone during this last
5 period of break?

6 A. No, I did not.

7 Q. Did you read anything during the last
8 break?

9 A. No, I did not.

10 Q. Are you familiar with the product
11 called Hot Shot No-Pest Strip?

12 A. I am familiar with it now.

13 Q. Are you aware that its main active
14 ingredient is something called DDVP?

15 A. No.

16 Q. When did you first become aware of
17 what Hot Shots are?

18 A. I would say learning about it in the
19 news.

20 Q. What position did you hold at
21 Starbucks when you first became aware of what Hot
22 Shots are?

23 A. Partner resources manager.

24 Q. And what was it in the news that you
25 read that made you aware of Hot Shots?

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2 A. I'm trying recall. I think there was
3 an article in regards to this matter and that's
4 what -- cause I had never known what a Hot Shot
5 was before or seen it.

6 Q. Had you ever -- strike that.

7 Do you have any information about the
8 use of Hot Shots in Starbucks stores in New York?

9 A. No. I don't have information aside
10 from knowing that we're not allowed to use
11 anything of -- I know we can't -- they can't be
12 used. They're not supposed to be utilized in
13 stores.

14 Q. Have you heard from anybody, whether
15 it's rumor or proven, about any Starbucks store
16 using Hot Shots?

17 A. No. I'm not aware of any stores
18 using Hot Shots.

19 Q. When you were a store manager did you
20 ever receive any correspondence, e-mail
21 correspondence, from district managers about Hot
22 Shots and not using them?

23 A. I can't recall specifically in
24 regards to that.

25 Q. Did you ever hear any Starbucks

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2 employee refer to DDVP ever?

3 A. No, I've never heard of that.

4 Q. As far as you know, has Starbucks
5 ever conducted an investigation into the potential
6 use of Hot Shots or DDVP in Starbucks stores?

7 A. Not to my knowledge or recollection.

8 Q. To the best of your understanding,
9 why is it that Hot Shots are not allowed for use
10 in Starbucks stores?

11 MR. MOY: Objection.

12 A. Well, I don't -- you're saying to the
13 best of my recollection or --

14 Q. If it's unclear, I'll ask the
15 question differently.

16 Did anybody ever explain to you why
17 it is that Hot Shots should not be used in
18 Starbucks stores?

19 A. I -- I guess I don't recall having a
20 conversation specifically around Hot Shots.

21 Q. Do you recall having a conversation
22 around the use of any other particular pesticide
23 in Starbucks stores?

24 A. I recall just being aware naturally
25 as a store manager that that's not allowed, to use

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2 any outside source to address pests.

3 Q. Is it your understanding that there's
4 any health or safety concern related to the use of
5 Hot Shots in Starbucks stores if they were used?

6 A. I'm not -- because I'm not super
7 familiar with it, I don't know the -- the
8 implications of utilizing it as far as what
9 is the impact on a person from having it in their
10 vicinity. I'm not well-versed to speak on that.

11 Q. What was it that you read about this
12 case that made you aware of Hot Shots; do you
13 remember what specifically you had read about
14 them?

15 A. No, I honestly can't remember
16 specifics to it. It was like a really long time
17 ago.

18 Q. When you read about Hot Shots in an
19 article about this case, did you ask anybody else
20 any questions about it?

21 A. Actually, no.

22 Q. Did you ever discuss anything that
23 you read about this case in any publication other
24 than with counsel?

25 A. No.

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2 Q. Did Mr. Fox ever complain to you
3 about the use of Hot Shots or DDVP at Starbucks?

4 A. Complain to me, what do you mean by
5 that?

6 Q. Did he ever express concern to you
7 that he perceived there to be a problem concerning
8 the use of Hot Shots in Starbucks in New York?

9 A. I can't remember verbatim what he
10 shared specifically, but -- yeah, I can't remember
11 verbatim what he said specifically. I just -- I
12 know we had a conversation and it was not in
13 relation to compliance and I directed him to his
14 district manager.

15 Q. Was it an in-person conversation that
16 you're referring to?

17 A. Yes.

18 Q. Where did the conversation take
19 place?

20 A. From my recollection, it was in the
21 back of house of his store.

22 Q. What store?

23 A. West Broadway and Leonard.

24 Q. Did Mr. Fox tell you that he was
25 concerned about Hot Shots or DDVP at any

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2 particular store location?

3 A. I don't recall him mentioning any
4 particular store location or any details as you
5 just asked.

6 Q. Did you ask him any questions to
7 clarify or get further information about what he
8 was talking about?

9 A. I did not dig deeper into what he was
10 referring to because I was there to address
11 compliance and in regard to the Fair Workweek
12 legislation, and anything outside of that would
13 have been without -- beyond my scope of work.

14 Q. Did you ever communicate to anyone
15 else that Mr. Fox had said something to you about
16 the use of Hot Shots or DDVP?

17 A. No, I did not.

18 Q. Do you believe that as of an employee
19 at Starbucks you were required to repeat his
20 complaint to anyone in particular?

21 A. No, I don't believe that -- based on
22 the recollection of the conversation, I believe
23 that I addressed it appropriately in directing him
24 to his district manager given that as a store
25 manager if you have a concern that you need to

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2 escalate, the next resource is the district
3 manager.

4 Q. Did you refer him to his district
5 manager by name or did you just say district
6 manager?

7 A. I can't recall specifically if I said
8 speak to your DM or Tim. I can't recall
9 specifically.

10 Q. Was Tim Hutchinson Mr. Fox's DM at
11 that time?

12 A. Yes, he was.

13 Q. Do you have any information as to
14 whether Mr. Fox had raised concerns about DDVP or
15 Hot Shots to any other managers at Starbucks at
16 any times, other than the one conversation you
17 referred to?

18 A. No, actually I -- I don't have any
19 awareness of that.

20 Q. What, if anything, did Starbucks do
21 in response to any complaints by Mr. Fox
22 concerning the alleged use of DDVP at Starbucks?

23 MR. MOY: Objection.

24 A. Are you asking if Starbucks did do
25 something?

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2 Q. As far as you know, did Starbucks do
3 anything?

4 A. I am not familiar with that. That
5 would not have been within my scope. I'm not even
6 aware of -- I'm not aware of any complaints is
7 what I'm saying, so I don't have any knowledge of
8 that. I only had knowledge of the conversation
9 that him and I had. I don't have any knowledge of
10 anything outside of that involving -- you said
11 DDC, I'm not sure, and Hot Shots, I don't have any
12 knowledge of that.

13 Q. After that conversation with Mr. Fox,
14 did anyone ever communicate anything to you about
15 Hot Shots at Starbucks at any time?

16 A. No, we never spoke about Hot Shots at
17 Starbucks.

18 Q. After your conversation with Mr. Fox
19 did Starbucks, to your knowledge or information,
20 change its enforcement practices with respect to
21 the use of Hot Shots in stores?

22 A. To my knowledge, no, as the company
23 always had guidelines that required we're not able
24 to utilize anything outside from contacting a pest
25 vendor in the event of us having a concern for

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2 that activity. So I don't -- I guess I don't
3 imagine that -- to my knowledge I don't know, to
4 be honest, you know, if something else was put in
5 place because the rules were already in place that
6 supported that not being utilized in stores.

7 Q. As far as you know, did Starbucks
8 ever do anything to verify whether its policies
9 were being followed with respect to the use of Hot
10 Shots in stores?

11 A. I'm -- I'm not aware of what
12 Starbucks or -- I'm not aware of the actions they
13 would take in regard to that because that is not
14 within my scope of works.

15 Q. I think I touched on this already,
16 but just so the record is very clear: As far as
17 you know, did Rafael Fox ever, in words or
18 writing, express concern about the use of Hot
19 Shots or DDVP at Starbucks to anyone else apart
20 from the one conversation with you?

21 A. Based on my recollection, no, I'm not
22 aware of any -- I'm not aware of anyone else that
23 he may have spoken to. I'm not aware of.

24 Q. Did you write down or memorialize in
25 any way that Rafael Fox had said something to you

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2 may have had with Starbucks employees?

3 A. No.

4 Q. Did you ever read a summary or a log
5 documenting the substance of any interviews that a
6 New York City Department of Consumer Affairs
7 representative may have conducted with employees
8 concerning the complaint you referenced?

9 A. No. Are you assuming that I'm aware
10 of them contacting any employees? Cause I'm not.

11 Q. Okay. Do you have any information
12 about the outcome of the NYDCA complaint?

13 A. Yes.

14 Q. To your understanding, what was the
15 outcome?

16 A. Based on -- based on the nature of
17 the complaint, it was substantiated that we were
18 in violation of different portions of the Fair
19 Workweek legislation.

20 Q. Did you ever read any written summary
21 or determination by the NYDCA?

22 A. I can't recall.

23 Q. What is the source of your
24 information about the outcome of the NYDCA
25 complaint?

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2 A. As the compliance specialist, when
3 the complaint came forward I had a responsibility
4 to go into the store at this point to look into
5 the complaint and identify if any of those -- if
6 the information was in violation of the law
7 itself, so that's really where my extent lies.

8 Q. We had talked before about e-mail
9 communications with Mr. Fox. Let's now go into
10 site visits. How many times did you visit Mr.
11 Fox's store while he was an employee there?

12 A. It's two that I can recall --
13 possibly a -- possibly a third -- maybe three.

14 Q. When was the first occasion?

15 A. The first occasion was after
16 receiving the New York City Department of Consumer
17 Affairs complaint.

18 Q. Do you recall approximately the date?

19 A. I don't recall the specific date. I
20 just know it was -- it was like in January.

21 Q. When you went to visit the store on
22 that occasion, were you already familiar with the
23 details of the NYDCA complaint?

24 A. I had seen the complaint, the actual
25 form, yes.

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2 Q. Did you note the identity of the
3 employee who had made the complaint?

4 A. You mean note them like as far as
5 like I would be able to identify them, no.

6 Q. Do you know what position the
7 employee held?

8 A. I know -- she may have been a
9 barista.

10 Q. Did you ever have any communications,
11 written or oral, with the employee who made the
12 DCA complaint?

13 A. I can't recall specifically.
14 Possibly, yeah, but I can't recall. I'm trying
15 to -- I can't recall specifically.

16 Q. Do you have any information, either
17 way, as to whether Mr. Fox had previously
18 consulted with any partner resources
19 representative concerning difficulties with that
20 particular employee prior to her complaint?

21 A. I am not aware of any actions or any
22 conversations or consultations that he may have
23 had specific to the partner. All I was aware of
24 is that there was a complaint filed by a partner
25 and we had a responsibility to look into it.

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2 anyone else did because, to my knowledge, I was
3 the first compliance specialist.

4 Q. Did you consider starting to visit
5 stores to assess compliance prior to this specific
6 first visit?

7 A. Yes.

8 Q. Why didn't you start visiting stores
9 for that purpose prior to this first visit?

10 MR. MOY: Objection.

11 A. I'm sorry, can you elaborate on that.

12 Q. Why was it that the first time you
13 conducted a site visit to assess compliance with
14 predictability pay was Mr. Fox's store, rather
15 than any other stores at any prior point in time?

16 MR. MOY: Objection.

17 A. No, are you saying that the first
18 time I went into visit a store was with Mr. Fox?

19 Q. What is the first store that you went
20 to visit to assess compliance with predictability
21 pay?

22 A. So I don't remember the first store
23 that I had went to, but this was the first store
24 where we had a complaint from the Department of
25 Consumer Affairs.

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2 that purpose prior to your visit to Mr. Fox's
3 store?

4 A. I -- I honestly don't recall a
5 specific amount.

6 Q. Did you document the site visits in
7 any way?

8 A. I would imagine that I did, but
9 because I really can't recall the timeline of
10 everything I can't -- you know, I can't say
11 specifically.

12 Q. Did you identify any incidents
13 of noncompliance with any aspect of the
14 predictability pay law at the stores you visited
15 prior to Mr. Fox's store?

16 A. The time I spent prior to -- okay,
17 what led to going to the store was a New York City
18 Department of Consumer Affairs complaint in
19 regards s to compliance. My intent in visiting
20 stores was to get an understanding of how it was
21 being executed, given that it was a new law and
22 everybody was in the process of learning and there
23 was some things that we would naturally really
24 expect to have already been in place. So, for
25 example, three weeks of schedules being posted,

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2 that was already a Starbucks standard, but Fair
3 Workweek made it the law, right. So my
4 understanding with visiting stores was to just get
5 and identify, you know, how we were showing up in
6 that regard, to provide any type of support.

7 However, going to Mr. Fox's store was
8 specific to a New York City Department of Consumer
9 complaint filed by a partner that required us to
10 immediately look into.

11 Q. In any site visits that you made to
12 any stores prior to Mr. Fox's store on this
13 specific occasion, did you identify any incidents
14 where you saw something not in compliance with the
15 predictability pay or Fair Workweek Law?

16 A. I would say yes. I never encountered
17 anywhere that is a hundred percent or there's no
18 areas to improve.

19 Q. When you would notice such areas for
20 improvement on those early site visits what, if
21 anything, did you do?

22 A. I would provide coaching to the store
23 manager and the district manager on how we could
24 improve in that regard.

25 Q. Did you ever document that you had

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2 Q. I'm asking.

3 A. No, no.

4 MR. GRAFF: Why don't we take a break
5 for eight minutes, until 4:55 if that's okay.

6 MR. MOY: Yes.

7 MR. GRAFF: Lets' go off the record.

8 (Whereupon, a brief discussion was
9 held off record.)

10 Q. Ms. McDonald, please tell me as much
11 as you remember about what occurred during the
12 first site visit to Mr. Fox's store with Mr.
13 Jennison and Mr. Hutchinson.

14 A. Okay. I -- I recall just going to
15 the store due to, as I said, the New York City
16 Department of Consumer Affairs complaint and
17 trying to just get an understanding of like what
18 led to the complaint and identifying if we -- if
19 there were gaps in compliance in relation to this
20 complaint, and so I think most of the time was
21 spent talking to Rafael.

22 I believe I recall at some point
23 going through a few timecards, looking at some
24 schedules. I asked about are schedules posted on
25 time in the store, I remember that. He shared

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2 with me that schedules are always posted on time
3 and it was kind of like --

4 Q. Wait, I'm sorry. Wait one second.

5 MR. GRAFF: I think Ms. Ruderman
6 needs to mute her phone. There's some
7 background noise.

8 (Whereupon, a brief discussion was
9 held off record.)

10 Q. Ms. McDonald, do you remember where
11 you were in your last answer?

12 A. I just remember -- yeah, I just
13 remember going in there, doing like an overview of
14 what did compliance look like in the stores, you
15 know, cause he initially shared that schedules
16 were always posted on time, but that
17 couldn't -- that couldn't really be proven. That
18 wasn't proven I would say, based on the review.
19 Checking to see if there was schedule change logs
20 in place, available shift postings, just trying to
21 get an understanding of what led to this complaint
22 and where we were in regard to the Fair Workweek
23 legislation.

24 Q. Did you document your findings?

25 A. Yes. Yes, I did.

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2 Q. In what form?

3 A. I can't -- I'm not sure if it was
4 like an e-mail or I utilized OneNote possibly, but
5 I did document the findings.

6 Q. Did both Mr. Hutchinson and Mr.
7 Jennison participate together with you for the
8 entirety of that visit?

9 A. No, I don't recall them
10 always -- they may have been in the lobby.

11 Q. How long was that visit?

12 A. Couple of hours.

13 Q. Was Mr. Fox on duty at the store
14 during the visit?

15 A. He was in the store. Yes, he was
16 there.

17 Q. What specifically did you determine
18 to be noncompliant with the predictability pay
19 rules on that first visit?

20 A. On the first visit I did, we were
21 not -- we were definitely not providing 14 days'
22 notice to partners of their posted schedules.
23 Partners -- the schedule change log was there, but
24 it was the entries were questionable in regards to
25 if these schedule changes were consent or not

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2

3 cause a lot of times -- if I recall correctly, he
4 may have been filling out a portion of it himself.
5 I don't necessarily recall that it was all entries
6 by the partners and missing consent in regards to
7 that.

8 I can't remember if it was this visit
9 or the second visit when I learned about the shift
10 postings and the opportunity around that as well,
11 like that was a -- we were not in compliance in
12 regards to shift posting and how they were being
13 handled; because what started the complaint was a
14 partner was saying that their hours had been
15 reduced because we hired externally.

16 The intent on the part of the law is
17 to provide partners with a greater access to
18 hours, making them a priority before we go and
19 hire outside. We want to give the opportunity to
20 our partners within the company first.

21 Q. Is that last issue a provision of the
22 predictability pay law or just a Starbucks policy?

23 A. That's part of the Fair Workweek
24 legislation, so predictability pay is a part of
25 the Fair Workweek legislation. So everything I'm
 talking about is in relation to the Fair Workweek

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2 legislation.

3 So if schedule is not being posted
4 with 14 days' of notice, partners experiencing
5 schedule changes and not being compensated
6 appropriately with the proper schedule change
7 premiums, posting available shift postings, hiring
8 externally before giving our partners the
9 opportunity to get those hours, all of that falls
10 under the umbrella of the Fair Workweek
11 legislation.

12 Q. Did you conclude, based on any of
13 your observations on that first visit, that any
14 employees were owed any monies by Starbucks in
15 connection with any of the noncompliant items that
16 you noticed?

17 A. I can't remember if it was
18 specifically the first visit or the second visit,
19 but I do know that the timecards did not match the
20 schedule change log.

21 So, for example, on the schedule
22 change logs there's different reason codes that
23 indicate whether a partner is supposed to receive
24 a schedule change premium or not; and so there
25 were instances where the -- it was either written

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2 in by Rafael himself and there was no consent or
3 where things were captured that supported a
4 partner was supposed to be paid, but it
5 wasn't -- you couldn't tell in the timecard.
6 There was no actual payment, and that actually
7 helped lead to me, as I continued to look into the
8 concern at the location, going back to the e-mail
9 communication in which I provided him guidance to
10 pay a partner that was not paid as well.

11 Q. At what point in time was that
12 guidance to pay a partner that you noticed after
13 the first visit hadn't been paid?

14 A. Recognizing -- from what I recall
15 was, was -- we -- the communication in regards to
16 the predictability pay, any questions in regard to
17 that had nothing to do with the -- the DCA
18 complaint, like that came after.

19 So at that point we're looking at --
20 it could have been a few weeks since he received
21 the guidance to pay the partner and it wasn't
22 paid.

23 Q. Do you recall what specific issue had
24 occasioned the need to make a special payment to
25 the particular partner?

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2 A. The -- the situation, it was around,
3 I believe, partners staying after their scheduled
4 times because if a partner stays more than beyond
5 fifteen minutes of their scheduled shift, they're
6 entitled to a schedule change premium and I
7 believe that's what it was in regard to.

8 Q. Did Mr. Fox reach out to you with a
9 question about how to handle payment for that
10 partner, which resulted in your directing him to
11 make the payment that you just described?

12 A. Yes. Mr. Fox reached out asking in
13 this particular instant, are we required to pay
14 predictability pay.

15 It was a question of this is what
16 happened, this is the situation, is predictability
17 pay owed to the partner. It was in that form.

18 Q. Do you remember the particulars of
19 the situation?

20 A. Not specific. I don't remember all
21 the intricate details, but I know it had to do
22 with a partner staying later than their scheduled
23 time. So I can't remember like how much later --
24 I don't remember all of that. I just know this
25 person had a schedule change of -- of more than

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2 fifteen minutes.

3 Q. How did you determine that that
4 partner had not been paid for that?

5 A. Looking at the timecard in the global
6 labor scheduling system at the time.

7 Q. And did you check for that during the
8 first visit or is that something you did later?

9 A. That was -- that was later. I don't
10 think that was on the first visit, no, cause on
11 the first visit I wasn't -- you know, I wasn't
12 thinking anything about any e-mail
13 communication -- like none of that was relevant,
14 but the intent of going to the store was because
15 we received a complaint from the Department of the
16 Consumer Affairs to look into Rafael Fox's
17 scheduling practices in regards to the Fair
18 Workweek legislation. That was the sole reason we
19 went to the store. There was no other reason.

20 Q. In connection with that first visit,
21 did you give Mr. Fox any instructions or
22 directions to do any particular things during that
23 visit?

24 A. That first visit, I don't -- I don't
25 recall giving him a specific instruction at the

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2 time because at that point we're in a discovery
3 phase, you know; we're just trying to understand,
4 get a pulse of how compliance is showing up in the
5 store. So there was no -- it wasn't like hey,
6 Rafael, go do this now as a result, because we're
7 in a discovery. We're trying to figure out at
8 this point is -- are these concerns that are being
9 raised are they accurate, are they valid, is
10 there -- are we in compliance with the Fair
11 Workweek legislation.

12 Q. I had understood from some prior
13 answers that you noticed that certain things were
14 not in compliance during that first visit. During
15 that visit, did you direct Mr. Fox to correct any
16 of the specific things that you observed and
17 believed to be noncompliant?

18 A. I'm sorry, can you repeat the
19 question. I apologize.

20 MR. GRAFF: Maybe the court reporter
21 could read it backs, please.

22 (The question requested was read back
23 by the reporter.)

24 Q. I can ask the question again. During
25 that first visit, did you tell Mr. Fox to correct

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2 any specific things that you believed to be not in
3 compliance?

4 A. Well, there were things that you just
5 can't correct. So for example if your schedule is
6 posted late, there's not going to be a correction
7 for that; it was already posted late. So if a
8 schedule change log is not in place, there's not
9 going to be -- or if the consents are missing, you
10 know, you may not be able to go and get consent,
11 especially if you filled it out yourself. So the
12 partner did not actually write that information
13 and the store manager did. So there are things
14 that you might not be able to correct.

15 In regards to payment of partners, I
16 don't recall us aligning or taking any action on
17 that particular day because, like I said before,
18 we were in a discovery phase and trying to
19 understand was this an isolated matter or was it
20 more to the situation, and so we had to look at it
21 objectively. So the only one thing that -- sorry.

22 Q. I'm sorry, I thought you were done.
23 I didn't mean to cut you off. Please continue
24 your answer.

25 A. Well, I would say the only -- and

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2 this is a typical direction I would give any store
3 manager going into a store, where schedules are
4 not posted in -- on time is more so about ensuring
5 that moving forward that is not something that
6 continues. Because he had shared that schedules
7 were always posted on time, but what the documents
8 said that showed different.

9 Q. Are you done answering?

10 A. Yes.

11 Q. When was your second visit to Mr.
12 Fox's store?

13 A. I -- I'm not sure of the date of the
14 second visit. It could have been within the next
15 week or, you know, it could have been within a few
16 weeks. Because looking into the concerns, that
17 did require me to go back to assure that
18 everything was looked at relative to the
19 complaint.

20 Q. Did anybody accompany you on the
21 second visit?

22 A. I believe Tim. I believe Tim was
23 there.

24 Q. All right, are you guessing or do you
25 remember Tim being there?

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2 A. I believe that Tim was there.

3 Q. Anyone else?

4 A. Not that I can recall.

5 Q. Did you notify Mr. Fox in advance
6 that you would be making a second visit?

7 A. Yes, I communicated.

8 Q. What was your objective or agenda
9 going into the second visit?

10 A. The second visit was really him
11 trying understand the payment of the partners
12 based on what I had identified from the first
13 visit, cause it's the first -- it's the second
14 visit that I -- I think is where I really
15 identified that oh, you know, even after receiving
16 guidance to pay partners that wasn't applied,
17 because it required me to go back into the
18 timecards. It not like it's something I would
19 have access to remotely. So in order to look at
20 partners' timecards, I would have to physically be
21 in the store.

22 Q. When you're referring to the guidance
23 to make payment to partners, is that the same
24 incident that we already talked about where he
25 asked you if payment was required in a particular

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2 situation?

3 A. Correct.

4 Q. Other than that one partner and
5 incident, did you direct Mr. Fox to make any other
6 payments that you believed he did not make?

7 A. At some point payments had to be
8 applied and I can't remember when that direction
9 was given because after really looking into
10 everything, partners was owed a significant amount
11 of predictability pay due to the late schedules as
12 well as what was captured on the schedule change
13 log where partners had experienced a loss of hours
14 in some instances or worked additional hours and
15 were not compensated properly.

16 So it was -- so I don't know if it
17 was -- I don't recall it being directly in that
18 second incident, because I think we still needed
19 to validate how much the amount would be that we
20 needed to pay the partners.

21 Q. Did you ever direct Mr. Fox to pay
22 any partners and find that he did not timely do
23 so, other than what you've already testified to?

24 A. I -- well -- when we had the
25 conversation about -- we did have a conversation

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2 about the initial communication of the partner not
3 being paid and during that conversation is when it
4 was -- I inferred it as him making a decision to
5 not pay, as he had shared that he didn't agree
6 with them being paid for staying the additional
7 time and he had some -- he said he was quite
8 familiar with the law based off of some personal
9 relationship with someone. I don't know if it was
10 like a girlfriend, a friend, someone he said very
11 familiar with the law that he had a relationship
12 with and so he felt like the guidance being
13 provided, he didn't agree with it.

14 Q. When did that discussion that you
15 were just describing take place?

16 A. That was, I believe, on the second
17 visit, because I believe it was also the second
18 visit where I identified that he was not
19 responding to a communication around the available
20 shift postings for partners.

21 Q. How did you identify that second
22 item?

23 A. Well, that's a part of the Fair
24 Workweek legislation and what led to the concern
25 around the external hire, and so we talked about

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2 what is the process and what does that look like
3 and he shared that partners did respond to the
4 available shift postings that he had submitted,
5 but he chose not to engage them because of the
6 fact that he feared that partners would come to
7 his store with their bad habits as opposed to
8 hiring someone externally who you're able to
9 groom.

10 Q. Just to be clear, is it your
11 testimony that you directed Mr. Fox to make a
12 payment to an associate that he had previously
13 been told to make and Mr. Fox told you he was not
14 doing that because he disagreed with your
15 instruction?

16 A. To be clear, he said the reasons he
17 did not do it was because he did not agree.

18 Q. How, if at all, did you respond to
19 him saying he was not following your direction?

20 A. Well, at that point I just informed
21 him I understand his interpretation or what he
22 thought to be accurate because everyone is
23 entitled to their opinion, however this is the
24 expectation.

25 Q. Did you document that communication

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2 with Mr. Fox at all?

3 A. Document that communication? I
4 don't -- I don't know if I recall documenting that
5 communication.

6 Q. Was it your perception that Mr. Fox
7 was being insubordinate in connection with not
8 following your direction?

9 A. Well, as a compliance specialist I'm
10 there to support and I'm the subject matter expert
11 around the Fair Workweek legislation, so I provide
12 guidance. Him choosing not to follow the guidance
13 is just him -- you know, I don't really take it
14 personal against me specifically, but he just
15 chose not to follow the expectations in compliance
16 with the law.

17 Q. Did you see that choice as
18 insubordinate under the circumstances?

19 A. Under those circumstances, I would
20 say, yes, he made a choice to not follow
21 directions.

22 Q. Did you report that event to anyone?

23 A. I did communicate that.

24 Q. At what point in time did you first
25 communicate that episode to anyone?

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2 A. That was event -- communicated
3 eventually in the overall recap of what was the
4 identified gaps in compliance and so, yeah --
5 that's --

6 Q. How long after you --

7 A. So that would be -- that was
8 communicated after visiting the store.

9 Q. Did you take notes during your second
10 site visit?

11 A. I believe I did take notes during the
12 second site visit as well.

13 Q. Did you mention Mr. Fox declining to
14 follow your directions to make payment to that
15 associate in your notes?

16 A. I can't recall that was captured
17 specifically in the notes. It's possible.

18 Q. Can you think of any particular
19 reason why you would not have chosen to document
20 that exchange in the notes?

21 MR. MOY: Objection.

22 A. I mean, that's assuming that I
23 didn't. Right now I can't recall whether I did or
24 not or what was the approach around that
25 specifically at that time.

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2 Q. Why did you choose to take notes
3 during that site visit?

4 A. Well, in order to be -- in order to
5 have information in regard to what we're looking
6 into regarding the New York City Department
7 Consumer Affairs complaint, I would have to
8 capture notes specific to the concern; and
9 I -- and it may have been --

10 Q. When you --

11 A. Sorry, go ahead.

12 Q. No, no, no. I thought you were done.
13 I apologize. Please continue and finish your
14 answer.

15 A. No, I was just saying that I -- you
16 know, it may -- a lot of what was needed was
17 gathering the information, gathering the
18 documents. You know, so for example with the
19 schedules, I had to gather the schedules. He said
20 that they were all posted on time, I needed to
21 gather those schedules and validate that. I had
22 to gather the schedule change logs to identify
23 what was captured on it. So a lot of time was
24 spent reviewing those documents to see where we
25 were in regards to compliance.

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2 Q. You had mentioned earlier that
3 something with the change log made it unclear or
4 impossible to determine whether certain changes
5 had been made with the partner's consent; is that
6 correct?

7 A. Yes, that is correct.

8 Q. Did you at any point in time, either
9 yourself or in coordination with anybody else,
10 have inquiries of the partners to determine
11 whether they had or had not consented to changes?

12 A. I feel like I did speak to some
13 partners, but I can't recall specifically who I
14 may have -- I may have connected with some
15 partners, but I cannot recall specifically.

16 Q. Was it part of your investigation to
17 determine whether changes had been made without
18 partner consent?

19 A. Yes.

20 Q. Did you ask all of the partners about
21 all of the changes that pertained to them?

22 A. I recall connecting with
23 the partners. I can't remember everything
24 specifically at this time.

25 There were some -- they had some

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2 instances where they put reason code 2 on the
3 schedule change log which means that you're
4 supposed to pay them and he didn't; and then there
5 were -- for example with the late schedules, he
6 would post them late and that means you're
7 supposed to pay the partners. They don't even
8 have to tell you that -- they don't have to
9 request to be paid. We know that that's the
10 expectation and he did not. Even though he said
11 that all the schedules were posted on time, but
12 they were not so that wasn't -- that wasn't
13 honest.

14 So though overall I -- honestly the
15 gaps in compliance, I've never encountered a
16 situation, as I said before, where it's a hundred
17 percent there's not an opportunity to improve; but
18 in this particular situation with the store, the
19 concern and the honesty or the lack of
20 transparency was evident or the decision to not
21 compensate partners and the time worked equals
22 time paid, and so making that decision it's not
23 okay; it's just not okay.

24 And the reality is that when it comes
25 to for example posting late schedules in a city

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2 where there's legislation, that violation alone is
3 typically a final. However in an instance where
4 we're posting schedules late, we're being provided
5 guidance to pay a partner and we don't, we're not
6 responding to the partner's communication in
7 regards to available shift postings and we're not
8 even following the standards, so -- and we're not
9 being honest about it, so there's a lot of
10 concerns there; and so a partner doesn't have to
11 tell you that hey, you didn't pay me. You know as
12 a store manager that you have to pay your
13 partners, you know the expectation is that time
14 worked equals time paid, and you posting schedules
15 with notice of less than 14 days and not paying
16 partners is not okay.

17 Q. Are you finished with your answer?

18 A. Yes.

19 Q. My question had been targeting
20 something very specific. You had earlier said
21 that there were certain entries in change logs
22 from which you could not determine if the change
23 had been initiated at the partner's request or
24 made with the partner's consent. My question now
25 is: Did you ever document the results of any

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2 inquiries posed to those partners to confirm
3 whether or not they had consented or initiated the
4 changes?

5 A. I can't remember specifically. What
6 I can recall is entries where they were supposed
7 to be paid and they weren't.

8 Q. What, if anything, did you do to
9 correct the nonpayment?

10 A. In the end to correct the nonpayment
11 for the partners we -- we identified, you know,
12 how much each partner was owed based off of the
13 late schedule, schedule change logs and we
14 processed payment for them.

15 Q. How much money was owed to partners
16 at Mr. Fox's store in connection with
17 noncompliance with predictability pay?

18 A. I don't remember.

19 MR. MOY: Objection.

20 A. I don't remember a specific dollar
21 amount. I know it was -- I believe it was a
22 couple thousand.

23 Q. Well, do you believe it was less than
24 \$5,000?

25 MR. MOY: Objection.

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2 Q. Do you believe it was less than
3 \$5,000?

4 A. I'm not sure because I don't remember
5 the specific dollar amount. The dollar amount
6 wouldn't be relevant to doing what's expected, so
7 I don't -- I wasn't focused on the dollar amount
8 as far as that being a concern. It's more so the
9 action behind it.

10 Q. Were you involved at all in -- in
11 investigating whether there were compliance issues
12 regarding predictability pay at any other stores
13 in New York City?

14 A. Yes. I was involved in anything in
15 regard to the Fair Workweek legislation, because
16 the Fair Workweek legislation is not just about
17 predictability pay.

18 Q. Did you conduct any sort of audit to
19 determine the existence of any noncompliance as to
20 any aspect of the Fair Workweek Law at stores
21 other than Mr. Fox's?

22 A. Yes, I did.

23 Q. How did you go about conducting that
24 audit; what was involved with the audit?

25 MR. MOY: Objection.

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2 City, is that what you're asking?

3 Q. Broader than what you did. Was there
4 any discussion of broadening your audit or review
5 beyond the level that you accomplished?

6 A. No, I don't recall being told that I
7 needed to go broader than what I had accomplished,
8 because I had accomplished a lot in regards to
9 visiting the amount of stores that I did within
10 the first year.

11 Q. When ws your third site visit to Mr.
12 Fox's store?

13 A. I can't remember that specifically
14 and I don't recall it being a long visit. I think
15 I was just -- I just went there to get the daily
16 records book.

17 Q. Was Mr. Fox present?

18 A. I believe he was there because I
19 wouldn't go into his store -- I would contact him
20 before going to his store. I would never just go
21 there without his awareness.

22 Q. For what reason -- withdrawn.

23 Was your purpose in going to the
24 store on that occasion to collect the records
25 book?

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2 A. Yes.

3 Q. Did you do anything else while you
4 were there?

5 A. I don't recall doing anything
6 additional.

7 Q. Other than the site
8 visits -- withdrawn.

9 Did you have any communications
10 with operations management concerning your
11 investigation and findings regarding Fair Workweek
12 compliance in Mr. Fox's store?

13 A. Yes, I did share my findings.

14 Q. With whom did you share your
15 findings?

16 A. I share my findings with my manager,
17 legal counsel, the regional director, and the
18 partner resources manager at the time.

19 Q. Who was the regional director at the
20 time?

21 A. Carla Ruffin.

22 Q. Who was the partner resources manager
23 at the time?

24 A. Bradley Jennison.

25 Q. Did you communicate your findings to

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2 any of those individuals in writing?

3 A. I believe I may have communicated
4 some of the findings in writing.

5 Q. Did you communicate any of the
6 findings exclusively in spoken words to any of the
7 individuals?

8 A. Yeah, there's a possibility. I'm
9 sure it was a combination.

10 Q. Was there any particular reason why
11 you would elect to put some of your findings in
12 writing and others only spoken?

13 MR. MOY: Objection.

14 A. No. I think honestly it was -- an
15 audit was done, I was responsible for
16 communicating the findings, and that was not
17 necessarily all in e-mail format.

18 Q. Did you ever meet with the different
19 individuals, who you've mentioned, as a group or
20 with any of them together to discuss your finding?

21 A. I did share my findings with them as
22 a group.

23 Q. Was that at a meeting that had been
24 convened specifically for that purpose?

25 A. Yes.

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2 Q. Who participated in the meeting?

3 A. My leader, Rachel, legal counsel,
4 Carla, Bradley.

5 Q. Carla Ruffin and Bradley Jennison?

6 A. Correct.

7 Q. Did you present any documentation
8 during that meeting?

9 A. I -- I may have presented the e-mail
10 exchanges, the -- possibly the time details, the
11 timecards to indicate the nonpayment, the
12 schedules that were posted with notice of less
13 than 14 days, and the schedule change log.

14 Q. When you say you might have, are you
15 guessing because those are documents you can think
16 of that might have been relevant to the subject of
17 the meeting or do you recall?

18 A. Those -- yeah, I recall having a
19 folder with those documents.

20 Q. Did you distribute copies of the
21 documents to any of the other attendees?

22 A. I did not distribute copies of the
23 documents.

24 Q. Did you pass them around the table?

25 MR. MOY: Objection.

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2 be fair to the matter and so I would just say a
3 few weeks.

4 Q. Did you investigate compliance at any
5 other Starbucks stores to the same extent as you
6 did Mr. Fox's store?

7 MR. MOY: Objection.

8 A. Yes, I did.

9 Q. How long was the meeting?

10 A. The meeting may have been about an
11 hour or less.

12 Q. Did you take any notes during the
13 meeting?

14 A. I -- I don't recall taking any
15 specific notes during that meeting.

16 Q. Did anybody else that you saw take
17 notes?

18 A. Not that I can recall specifically.
19 My focus was more on sharing the facts with the
20 group; that was my role.

21 Q. Were all of the members of the group
22 present for the meeting from start to finish?

23 A. I cannot definitively say yes or no.
24 I can't recall specifically.

25 Q. On the day of that meeting, did you

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2 off the record until 6:05 p.m.

3 MR. MOY: All right.

4 (Whereupon, there was a brief recess
5 in the proceedings.)

6 Q. During this last break, Ms. McDonald,
7 did you communicate with anyone or read anything?

8 A. No, I did not.

9 Q. During the meeting that we had been
10 talking about before the break where you
11 communicated your findings to a group of people,
12 was there any determination made during the course
13 of that meeting as to how to proceed in light of
14 your findings?

15 A. No.

16 MR. MOY: Objection.

17 A. I don't recall that.

18 Q. After that meeting, did you
19 subsequently have any communications with anybody
20 at Starbucks about Mr. Fox prior to his
21 termination?

22 A. No, not that I recall. My role was
23 only to communicate the findings and then as far
24 as any action, employment action that that's
25 not -- that's not what was within my scope as a

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2 compliance specialist, so I did not -- they do not
3 involve me in those -- those type of decisions.

4 Q. Even if you were not involved as a
5 decision-maker or contributor to the decision, did
6 anybody else in the group speak to you about Mr.
7 Fox after the meeting prior to Mr. Fox's
8 termination?

9 A. I don't recall speaking about him
10 with anyone after that meeting.

11 Q. Did you, yourself, have any further
12 contact with Mr. Fox?

13 A. Not that I could specifically recall.

14 Q. Is the next thing that you heard
15 concerning Mr. Fox after that meeting the article
16 that you read about the lawsuit that you referred
17 to earlier today?

18 A. Pretty -- yes. So after he was no
19 longer partner, then I heard about a lawsuit.

20 Q. Were any other management employees
21 at Starbucks, as far as you know, subject to any
22 sort of disciplinary or corrective action in
23 connection with compliance with the Fair Workweek
24 Law?

25 A. Yes. Several managers were subjected

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2 to accountability, up to and including separation,
3 in regard to Fair Workweek legislation.

4 Q. How many partners other than Mr. Fox,
5 that you're aware of, were separated involuntarily
6 from their employment due to noncompliance with
7 that legislation?

8 MR. MOY: Objection.

9 A. Now, this is -- now of course, you
10 know -- can you repeat the question.

11 Q. Other than Mr. Fox, how many
12 Starbucks managers were terminated in connection
13 with noncompliance with the Fair Workweek Law?

14 MR. MOY: Objection.

15 A. So just to be clear, I may not have
16 always been aware of every single separation,
17 right, to be honest with you because a concern
18 could be listened to and it could be different
19 components of the Fair Workweek legislation.
20 However in regards to that, I might be aware of it
21 maybe around eight.

22 Q. Were you involved in investigating
23 compliance by those eight managers who were
24 ultimately separated?

25 A. From what I'm recalling, yes -- well,

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2 no, actually, not. I believe there was maybe one
3 or two that it fell in regards to scheduling or
4 labor compliance, but not necessarily Fair
5 Workweek legislation specifically. I'm not sure.

6 Q. Over what period of time were the
7 approximately eight managers who you're referring
8 to separated from their employment?

9 A. Over the course of a year.

10 Q. Were they all separated after Mr. Fox
11 was fired?

12 A. I don't remember all the specific
13 timings of everyone. Possibly, yes --

14 Q. Did you --

15 A. -- and the reason being that we
16 consistently hold partners accountable for
17 violating time worked equals time paid because of
18 the egregiousness of it.

19 Q. To be clear, they were all separated
20 after Mr. Fox was fired?

21 A. I'm not -- I don't know all the
22 dates, to be fully honest, because that's not -- I
23 don't make the decision in regards to that, right.
24 So there could have been something that happened
25 prior to his separation. I'm not like a hundred

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2 percent sure. I just know that with his situation
3 specifically, you know, it was egregious enough
4 that it warranted separation from the company.

5 Q. Who decided to terminate Mr. Fox, if
6 you know?

7 A. That -- a decision -- employment
8 action decisions are made by the operators in
9 partnership with legal. They have to receive
10 legal guidance on that.

11 Q. Other than the approximately eight
12 managers who you think might have been separated
13 due to noncompliance with the Fair Workweek Law,
14 are there any managers you're aware of who
15 received a lesser form of discipline?

16 A. I've seen managers receive maybe a
17 final written warning for late schedules.

18 Q. Are you aware of any other managers
19 who have received written coaching or warnings,
20 other than what you've testified to?

21 A. I am aware of receiving maybe a
22 written warning if you do not post a shift, an
23 available open shift.

24 Q. How many such written warnings were
25 issued, that you know of?

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2 A. That I can't recall specifically.

3 The level of severity is determined based on the
4 actual violation. So for example as I shared
5 posting schedules late in a city where there's
6 a legislation, that's a final warning.

7 Typically -- and so it really depends on what the
8 actual violation is in regards to the level of
9 severity.

10 So in the case of the store managers
11 being separated for example, in the instances that
12 I recall what led to the separation was that the
13 matters were so egregious as well as the integrity
14 concern.

15 Q. I'm posting a document that I've
16 labeled Exhibit McDonald 21. It is a one-page
17 document bearing Bates number DEF0463.

18 Ms. McDonald, if you can, please open
19 the file. My first question will be: After
20 you've had a chance to look at it, do you
21 recognize this document?

22 A. Okay.

23 (Whereupon, Exhibit 21 was marked at
24 this time.)

25 A. Okay, I have the e-mail in front of

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2 Q. How did you select the other stores
3 to visit for the purpose described in this e-mail?

4 A. I -- I can't -- I don't remember if
5 I'm the one who even selected the stores, to be
6 honest.

7 Q. As sit here today, do you know
8 whether there was any methodology for selecting
9 the stores that you visited as anticipated in the
10 e-mail?

11 A. No, because I don't -- I don't recall
12 being the person to select what locations to visit
13 cause I was -- I was a compliance specialist.
14 Bradley was the partner resources manager, so in
15 that regard I would have been following his lead
16 based on his familiarity with store managers and
17 the district.

18 Q. Did you fill out notes on your laptop
19 in connection with each of the visits to the other
20 stores that day?

21 A. I -- I believe I did capture notes
22 because the intent was -- the intent was to get an
23 understanding of is there -- is this just
24 specific -- is what we're seeing specific to
25 Rafael only or is this a districtwide concern. So

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2 ultimately it was important to be fair and
3 objective to see okay, are we seeing something
4 differently under Rafael's leadership and how
5 compliance is showing up in comparison to his
6 peers. That was the intent.

7 And as a result what I recall was
8 identified was that -- as I shared prior, I never
9 met a store that was a hundred percent in
10 compliance. I think there is always an
11 opportunity to improve, so it was similar in that
12 regard that there were opportunities within the
13 district where improvement could be made in
14 regards to compliance.

15 However, in Rafael's store the
16 violations were much more egregious. Actually,
17 they were not egregious in the other stores at
18 all. It was just things like, okay, we need to
19 work on this, we need to establish a better
20 cadence.

21 However, in Rafael's store it was
22 more -- it was severe. So we had all the late
23 schedules. We had the lack of transparency
24 because he said he always posted the schedules on
25 time, but that was not the case. We had schedules

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2 that were missing. We had schedule change logs
3 filled out by him and missing consent. We had the
4 indications of partners capturing things on the
5 log and not being paid. That was not identified
6 in all the other stores, thankfully.

7 Q. Did you identify and come to the
8 conclusions that you've just been describing on
9 January 16, 2018?

10 A. I came to the conclusion that this
11 was ultimately a real concern. I would say that,
12 yes, I did come to a conclusion this was a real
13 concern, but ultimately, you know, I still wanted
14 to, like I said, take the time because ultimately
15 we're talking about a partner, right.

16 Rafael was a store manager. We want
17 to make sure we do our due diligence, and look
18 into the concern objectively, make that sure that
19 there's nothing missing here. And so, yeah, I
20 came to a conclusion that there's a real concern
21 here, yes, based off of the observations of what I
22 saw. In comparison to the other store managers in
23 the district, there was a difference.

24 Q. Is it your understanding that the
25 Department of Consumer Affairs conducted an

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2 investigation to assess compliance within Mr.
3 Fox's store based on the complaints that you
4 already mentioned?

5 A. Yes. To my understanding what led to
6 the -- what ultimately resulted -- what led to all
7 of this was a partner filing a complaint with the
8 DCA in regards to what was happening in the
9 location, to my understanding.

10 Q. Did you ever read anything about the
11 evidence that the investigator compiled?

12 A. From the DCA?

13 Q. Yes.

14 A. No, I don't recall. I don't recall
15 reading anything from the DCA.

16 Q. Is that true all the way up until
17 this moment?

18 A. The only thing I ever saw was the
19 complaint itself. I can't recall -- I can't
20 recall any other documents outside of the
21 complaint form in itself, given that outside --
22 regardless of the complaint in itself, as a
23 company we still have a responsibility to look
24 into it. So I don't think that would have changed
25 the outcome unfortunately based off of what was

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2 Q. Who is Tasmin Abocci?

3 A. A district Manager.

4 Q. Who is Tamit Ashebir?

5 A. A district manager.

6 Q. The subject line on this e-mail chain
7 is "Audit Store Number Symbol 15685." My question
8 is --

9 A. Yes.

10 Q. -- apart from what's summarized in
11 this e-mail, did your audit of that store extend
12 to any other findings?

13 A. Aside from what was in -- identified
14 in this e-mail?

15 Q. Yes. Are there any things that your
16 audit uncovered that you didn't include in this
17 specific e-mail?

18 A. I mean, not that I can recall
19 specifically. I just know this manager was
20 separated as well having integrity concerns
21 similar to Rafael's.

22 Q. Did you participate in the decision
23 to terminate this manager?

24 A. That was -- that was -- I was not --
25 no, that decision was made by the regional

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2 else at Starbucks?

3 A. I can't recall if I discussed this
4 specifically.

5 Q. And is it the case, now that you've
6 seen a couple of examples, do you recall whether
7 you at any point in time after Mr. Fox's
8 separation looked to see if you had text message
9 communications with him?

10 A. No, I don't recall looking for
11 communication with him.

12 Q. You can put that document aside.

13 Ms. McDonald, I just posted a
14 document labeled Exhibit McDonald 32. It is a
15 five-page document produced by defendant bearing
16 Bates numbers Defendant 45359 through 45363.

17 If I could direct your attention
18 first to the first two pages of the exhibit and,
19 if you could, take a look to see was there and let
20 me know when you've read it.

21 A. Okay.

22 Q. Once you've had a chance to look at
23 it, my question will be whether you can identify
24 what are the first two pages of this document.

25 (Whereupon, Exhibit 32 was marked at

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this time.)

A. Okay, yes, I've -- I looked at the document.

Q. What are these first two pages, if you know?

A. These are basic observations of what -- these are notes captured specific to compliance and predictability pay to partners in the store between the time period of November 26th and January 16th.

Q. What store specifically?

A. Store 15751.

Q. Was that Mr. Fox's store?

A. That is correct.

Q. Did you create this document?

A. I did.

Q. On the first page of the document there's a number of places where it's indicating that something is missing consent. Do you see those references?

A. I do.

Q. How did you determine whether consent had or had not -- withdrawn.

Apart from the consent not being

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2 listed where you expected to see it, did you do
3 anything to determine whether consent had in fact
4 been given by the referenced employees?

5 A. This was specific to the schedule
6 change logs, so that was what was referenced to
7 capture this document.

8 Q. Did you do anything to find out
9 whether the employees, whose consent was not
10 recorded, in fact did or did not actually consent
11 to the specific changes?

12 A. I -- I don't recall specifically
13 because ultimately when going into his
14 store -- this is about an overview of compliance
15 in the store and what -- unfortunately what came
16 out of it was --

17 Q. If I could --

18 MR. MOY: Don't interrupt the
19 witness. Let her finish.

20 Go ahead, Tina.

21 A. So I went to look and evaluate
22 compliance in the stores, so these were the
23 findings.

24 So what led to Rafael Fox's situation
25 where we are today, unfortunately was around the

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2 integrity piece and the overall violations
3 relative to compliance and so -- and just the late
4 schedules where we know we're supposed to pay a
5 partner. Partners, the law -- partners are not
6 really familiar with their rights. So we have a
7 responsibility as those leading them to ensure
8 that we're in compliance. Hence, why the store
9 managers went through training on compliance.

10 And even outside of that, three weeks
11 of schedules were expected to be posted prior to
12 the Fair Workweek legislation and that was not
13 happening. And then when asked about those
14 behaviors in the location, he said that he was
15 postings schedules which he was not. He was given
16 guidance before to pay partners and he chose not
17 to, so I'm just trying to understand where we're
18 going specifically with this.

19 MR. GRAFF: Move to strike the
20 entirety of the preceding response as not
21 responsive.

22 Q. I'm going to ask a specific question
23 and, if you could, try to answer it specifically.
24 Did you ask --

25 A. Sure.

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2 Q. -- any of the partners in Mr. Fox's
3 store whether they had, in fact, consented to any
4 of the changes that you believed may not have been
5 consented to?

6 A. I can't recall.

7 Q. Could I ask you, please, to scroll
8 down to the third page of this document, Bates
9 numbered DEF45361.

10 A. Sure.

11 Yes, okay. I'm -- we're at the top
12 where it says "Compliance"?

13 Q. Yes.

14 A. Okay.

15 Q. The date there is Thursday, January
16 11, 2018, 10:12 a.m.

17 A. Yes.

18 Q. Does that mean that you drafted the
19 text that appears on this page at approximately
20 that time?

21 A. Yes, that's what that would mean.

22 Q. Generally, what are you describing in
23 this page of the exhibit?

24 A. This was in regards to period of rest
25 violations. So partners are allowed -- are

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2 required to have 11 hours in between shifts and so
3 this is capturing relative to the rest between
4 shifts report that came out.

5 Q. Does this pertain to Mr. Fox's store?

6 A. Yes, it does.

7 Q. Scrolling forward please to the next
8 page, Page 4 Bates numbered 45362, the top of the
9 page says "Questions," the date Thursday, January
10 11th at 11:57 a.m. Did you type the text that
11 appears below that on this page?

12 A. Yes. Yes, I did.

13 Q. Did you type all of the text at or
14 around 11:57 a.m. or did you write it perhaps in
15 two stages?

16 A. I believe I captured it all at the
17 same time.

18 Q. If you look at each paragraph, it
19 appears to be laid out as a question followed by
20 an answer. Do you see that?

21 A. Yes, I do.

22 Q. Were you writing down in these notes
23 the questions and the answers as you were asking
24 and receiving them?

25 A. Yes, that is correct.

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2 Q. Did you have any of these questions
3 prewritten going into whatever meeting?

4 A. I can't recall.

5 Q. Who did you pose these questions to?

6 A. Rafael Fox.

7 Q. And you recorded his answers to the
8 questions?

9 A. That's correct.

10 Q. Did you ever show him a copy of your
11 summary of this meeting for him to review and let
12 you know if he had any corrections for accuracy?

13 A. I don't recall.

14 Q. Can I direct your attention, please,
15 to the final page of the document, Bates numbers
16 Defendant 45363. This page is headed or captioned
17 "Compliance Notes 15751." Beneath that there's a
18 date, January 23, 2018 at 12:23 p.m. Ms.
19 McDonald, did you write all of the text on this
20 page?

21 A. Wait, which one? I'm sorry.

22 Q. The last page in this exhibit.

23 A. Okay, sorry. From January 23rd,
24 2018; is that correct?

25 Q. That's the page, yes.

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2 A. Yes, I did capture these notes.

3 Q. Did you write them all in one sitting
4 at approximately 12:23 p.m.?

5 A. Yes, I believe so. I can't recall
6 specifically, but yes.

7 Q. And do these notes pertain to Mr.
8 Fox's store?

9 A. Yes, they do.

10 Q. What was the purpose of drafting this
11 page of the document?

12 A. So the purpose was to -- it goes back
13 to the Fair Workweek legislation and analyzes what
14 the compliance -- the gaps in compliance in the
15 location.

16 So, for example with the schedules,
17 it's capturing the amount of notice provided to
18 partners and the amount of violations for each
19 category; so schedules, schedule change logs for
20 example, a period of rest violations, and the good
21 faith estimate form, all of those are part of the
22 Fair Workweek legislation and so this was -- the
23 intent was to just capture an overall view of
24 that.

25 Q. Do you see there's a section towards

1 - TINA McDONALD -

2 the bottom of the document in bold that says;

3 "Period of Rest Violations"?

4 A. Yes, I do.

5 Q. On that line it says "zero
6 violations" and then below that there's two more
7 sentences. Do those sentences each describe --

8 A. Yes.

9 Q. Do those sentences describe
10 violation?

11 A. We don't -- those are not considered
12 to be violations due to the 15-minute rule, where
13 partners are allowed a schedule change of 15
14 minutes or less without resulting in a period of
15 rest violation or a schedule change premium.

16 MR. GRAFF: Let's take a break off
17 the record until 7:05 p.m.

18 THE WITNESS: Okay.

19 (Whereupon, there was a brief recess
20 in the proceedings.)

21 Q. Ms. McDonald, did you communicate
22 with anyone or read anything during the break?

23 A. No, I did not.

24 Q. Quick question: Going back to the
25 last page of the Exhibit 32 that we've just been

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Q. I'm going to direct your attention now to another line of questions posed by Mr. Graff. Earlier Mr. Graff asked you whether Mr. Fox raised the issue of the use of DDVP with you, do you recall?

A. Yes, I recall being asked that.

Q. Did Mr. Fox raise this issue with you before your investigation of Mr. Fox began?

A. No.

Q. Do you recall when Mr. Fox first raised the issue of DDVP with you?

A. The conversation happened in his
store after receiving the DCA complaint and I just
happened to be there auditing the timecards and
that's when he made the comment.

Q. Did you perceive him to have made a complaint to you about the use of DDVP at the store?

MR. GRAFF: Objection.

A. Honestly speaking, I did not take it as a complaint. I took it as more of an asking a question and I directed him to the correct resource.

Q. And that resource, I believe you

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2 mentioned earlier, was from the district manager?

3 A. Correct, I directed him to his
4 district manager because when typically a store
5 manager has a concern, the person they should
6 escalate the concern to is their district manager
7 because they are the resource.

8 Q. During this conversation with Mr.
9 Fox, did he suggest that the use of DDVP was
10 widespread at Starbucks stores?

11 MR. GRAFF: Objection.

12 A. No, I -- I don't recall him making
13 that suggestion.

14 Q. What, if anything, do you recall
15 about what Mr. Fox said to you with respect to
16 DDVP?

17 A. I just recall him saying that or
18 like asking about, you know, if it -- I
19 believe -- okay, I believe that he believed it was
20 being used in a specific store. I don't recall
21 him saying widespread. I -- I recall it more
22 about a specific location and kind of like what
23 should he do. That's what I recall.

24 Q. Did you refer this conversation with
25 Mr. Fox concerning DDVP to any other employee at

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2 Starbucks?

3 MR. GRAFF: Objection.

4 A. No. No. After that conversation, I
5 did not -- I, honestly, did not take it as a
6 complaint or anything of that nature. I just took
7 it as him asking a question and me directing him
8 to the resource, because when I was in his store
9 it was to look into compliance -- schedule and
10 compliance in relation to Fair Workweek
11 legislation and the DCA complaint. That -- that
12 was within my scope of work. Anything outside of
13 at that, you know, didn't fall within my work.

14 Q. I have another line of questions for
15 you regarding your investigation or audit of Fox's
16 store.

17 When you commenced your audit of
18 Fox's store, were you aware of any concerns raised
19 by Fox regarding the alleged underpayment or
20 nonpayment of wages to store employees?

21 MR. GRAFF: Objection.

22 A. No. No, I was not aware of any other
23 concern. No.

24 Q. At any point during the course of
25 your investigation or audit of Fox's store, were

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2 you aware that Fox raised any such concerns
3 regarding the alleged underpayment or nonpayment
4 of wages to store employees?

5 MR. GRAFF: Objection.

6 A. No, I was not aware of that.

7 Q. I'm going to refer you to Mr.
8 Graff's questions to you regarding employees'
9 signatures in the schedule change logs. Does an
10 employee consent for a schedule change have to be
11 in writing?

12 A. Yes, partners are required to consent
13 in writing.

14 Q. If there is no handwritten consent by
15 a store partner there is no consent for compliance
16 purposes, correct?

17 MR. GRAFF: Objection.

18 A. Of course -- in regards to
19 compliance, that would be considered that the
20 partner did not consent.

21 Q. If there is no handwritten consent
22 for a schedule change that is a violation,
23 correct?

24 MR. GRAFF: Objection.

25 A. Correct.

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2 Q. And the requirement that a store
3 employee actually consent in writing is a
4 requirement imposed by law?

5 A. That is correct. That is a part of
6 the Fair Workweek legislation, that partners
7 provide written consent for all schedule changes
8 outside of their already posted schedule.

9 Q. I believe you testified earlier that
10 there were several hundred Starbucks stores,
11 correct?

12 MR. GRAFF: Objection.

13 A. Correct. Yes, there are hundreds
14 of -- yup, that is accurate.

15 Q. And do you know how many employees
16 Starbucks has?

17 A. Thousands, thousands of employees.

18 Q. Okay. Sitting here today, do you
19 know how long it would take for you to call every
20 single employee for whom a store manager signed
21 rather than having the store employee sign?

22 MR. GRAFF: Objection.

23 A. I -- I don't know how long that would
24 take, but that -- honestly, that would have been
25 unrealistic. As a compliance specialist